

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DONALD J. TRUMP and TRUMP
ORGANIZATION LLC,

Plaintiffs,

v.

LETITIA JAMES, in her official capacity
as Attorney General for the State of New
York,

Defendant.

Case No. 1:21-cv-1352 (BKS)(CFH)

**REPLY DECLARATION OF COLLEEN K. FAHERTY IN FURTHER
SUPPORT OF DEFENDANT'S MOTION TO DISMISS THE COMPLAINT**

I, Colleen Kelly Faherty, an attorney duly admitted to practice law in this Court, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is correct:

1. I am an Assistant Attorney General in the Office of LETITIA JAMES, Attorney General of the State of New York, attorney for Defendant Letitia James, sued in her official capacity. I submit this reply declaration in further support of Defendant's Motion to Dismiss the Complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

2. This declaration addresses information related to the New York State Office of the Attorney General's (OAG) ongoing investigation into, *inter alia*, whether Plaintiffs Donald J. Trump and the Trump Organization, and various affiliated entities, had a practice of falsely inflating and deflating the value of Mr. Trump's assets when it served their purposes, such as to

secure loans and obtain economic and tax benefits (the “Investigation”). *See People v. The Trump Organization*, No. 451685/2020, 2020 WL 5775887, at *1 (Sup. Ct., N.Y. Cty. Sept. 23, 2020), *modified on reargument*, 2020 WL 5992323 (Sup. Ct., N.Y. Cty. Oct. 7, 2020), *further modified on reargument*, 2020 WL 7360811 (Sup. Ct., N.Y. Cty. Dec. 15, 2020). I submit this declaration based upon personal knowledge and my review of documents and records in possession of OAG, where I am employed and for which I am an Assistant Attorney General participating in the Investigation.

3. On February 9, 2022, Mazars USA LLP, Plaintiffs’ longtime accountants who prepared Mr. Trump’s financial statements that are the focus of OAG’s Investigation, determined that the statements covering the period 2011 to 2020 “should no longer be relied upon” and that Plaintiffs “should inform any recipients thereof” that they “should not be relied upon.” Attached as Exhibit A is a true and correct copy of the February 9, 2022 Mazars letter.

4. On February 17, 2022, Justice Engoron issued a decision and order in *People v. The Trump Organization*, NY Index No. 451685/2020 (the “NY Proceeding”), denying Mr. Trump’s motion to quash OAG’s subpoena seeking his documents and testimony and granting OAG’s cross-motion to compel compliance. Attached as Exhibit B is a true and correct copy of the February 17, 2022 decision and order issued by Justice Engoron.

5. Attached as Exhibit C is a true and correct copy of a brief filed in the NY Proceeding styled Moving Parties’ Joint Memorandum of Law in Support of Their Motion to Quash and/or Stay Subpoenas and in Opposition to the Attorney General’s Motion to Compel (NYSCEF No. 642).

6. On February 17, 2022, I attended oral argument in the NY Proceeding before Justice Engoron on Mr. Trump’s motion to quash OAG’s subpoenas and OAG’s cross-motion to compel. During the argument, Mr. Trump’s individual counsel Ronald P. Fischetti asserted on the record that, if the court were to deny his motion to quash and grant OAG’s motion to compel, then

he would need time in order to file an immediate appeal from any such decision on behalf of his client.

7. Attached as Exhibit D is a true and correct copy of the February 17, 2022 “Statement by Donald J. Trump, 45th President of the United States of America,” as accessed via the following hyperlink located at <https://www.donaldjtrump.com/news/news-ukytdh3581593>.

Dated: New York, New York
February 23, 2022

LETITIA JAMES
Attorney General
State of New York

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